

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**DEWEY DOMINGUES (Domingues Farm)**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

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**Enforcement Tracking No.  
WE-CN-02-1187**

**Agency Interest No. 104411**

**SETTLEMENT**

The following Settlement is hereby agreed to between Dewey Domingues (Domingues Farm) (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

**I**

Respondent is an individual who owns and/or operates Domingues Farm a facility located at 17219 Louisiana Highway 331, Erath, Vermilion Parish, (“the Facility”). The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authority to discharge waters and/or other substances to the waters of the state.

**II**

On June 24, 2003, the Department issued a Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-02-1187, to Respondent, which was based upon the following findings of fact:

On or about November 18, 2002, an inspection was conducted as the result of a citizen’s complaint. This inspection revealed that approximately 100 gallons of diesel was spilled. The diesel went into a drainage ditch, thence a roadside ditch, and thence the Boston Canal, all waters of the

state. Dams were used in an attempt to contain the spill and a vacuum truck and absorbent pads were used to clean up the material that was contained. This spill was not reported to the Department. Failure to report a discharge of a reportable quantity is in violation of La. R.S. 30:2025 (J) (2), La. R.S. 30:2076 (A) (3), La. R.S. 30:2076 (D), LAC 33:I.3917.A, and LAC 33:I.3925.A.

On or about November 18, 2002, an inspection was conducted that revealed the Respondent did not have a Spill Prevention and control plan. Furthermore, there was no secondary containment present around the two 7,800 gallon tanks at the site. The Respondent's failure to provide appropriate containment and/or diversionary structures or equipment to prevent a spilled substance from reaching waters of the state and failure to implement an adequate Spill Prevention and Control (SPC) plan is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A., LAC 33:IX.901.A., LAC 33:IX.905.B and LAC 33:IX.907.

The Respondent received Warning Letter WE-L-02-1187 from the Department on or about January 8, 2003, regarding the inspection conducted on or about November 18, 2002. The Respondent was requested by the Department to take immediate actions to ensure compliance with all environmental regulations.

### III

In response to the Compliance Order and Notice of Potential Penalty, Respondent made a timely request for a hearing.

#### IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

#### V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,500.00) of which ONE HUNDRED TWENTY-THREE AND 50/100 DOLLARS (\$123.50) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

#### VI

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

#### VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement.

## VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Vermilion Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

## XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Mike Longman

DEWEY DOMINGUES (Domingues Farm)

BY:

Dewey Domingues  
(Signature)

Dewey Domingues  
(Printed)

TITLE:

Principal/Partner

Lance P. Brundage

THUS DONE AND SIGNED in duplicate original before me this 25<sup>th</sup> day of September, 20 03, in Abbeville La.

Nancy J. Summons  
NOTARY PUBLIC

WITNESSES:

Helen Barlow  
Lauren L. Ardoin

STATE OF LOUISIANA

Hall Bohlinger, Secretary

Department of Environmental Quality

BY:

R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 26<sup>th</sup> day of January, 2004, in Baton Rouge, Louisiana.

Randall S. Beard  
NOTARY PUBLIC

Randall S. Beard Barroll # 27771

Approved:

R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary

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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

RICHARD P. IEYOUNG  
ATTORNEY GENERAL

DATED: 12-30-03

BY: 

ASSISTANT ATTORNEY GENERAL